

1 Richard G. Frenkel
2 Bar No. 204133
3 rick.frenkel@lw.com
4 LATHAM & WATKINS LLP
3 140 Scott Drive
Menlo Park, CA 94025
4 Telephone: (650) 328-4600
Facsimile: (650) 463-2600

6 *Counsel for Defendant
Amazon.com, Inc.*

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

13 EOLAS TECHNOLOGIES INCORPORATED,

14 Plaintiff:

V

16 || AMAZON.COM, INC.

Defendant.

Case No. 4:17-cv-03022-JST

Related to Case Nos. 4:17-cv-01138-JST,
4:17-cv-03023-JST, and 4:15-cv-05446-JST

**DECLARATION OF RICHARD G.
FRENKEL IN SUPPORT OF
DEFENDANTS' REPLY IN SUPPORT
OF MOTION FOR SUMMARY
JUDGMENT ON OBVIOUSNESS-TYPE
DOUBLE PATENTING &
PRECLUSION DOCTRINES**

**Judge: Hon. Jon S. Tigar
Hearing Date: July 16, 2020
Hearing Time: 2:00 P.M.**

1 I, Richard G. Frenkel, declare as follows:

2 1. I am an active member of the State Bar of California, a member in good standing
 3 of the Bar of this Court, a partner at Latham & Watkins LLP, and counsel for Defendant
 4 Amazon.com, Inc. ("Amazon") in the above-titled action. I make this declaration in support of
 5 Defendants' Reply In Support of Motion for Summary Judgment on Obviousness-Type Double
 6 Patenting & Preclusion Doctrines. I have personal, first-hand knowledge of the matters set forth
 7 below and, if called as a witness, I could and would testify competently thereto.

8 1. Attached as Exhibit 52 is a true and correct copy of excerpts from the January 12,
 9 2017 Deposition Transcript of David C. Martin in *Eolas Technologies Inc. v. Amazon.com Inc.*,
 10 No. 6:15-cv-01038-RWS (E.D. Tex.), which is from the present case before it was transferred to
 11 this Court.

12 2. Attached as Exhibit 53 is a true and correct copy of excerpts from the January 26,
 13 2017 Deposition Transcript of Michael Doyle in *Eolas Technologies Inc. v. Amazon.com Inc.*,
 14 No. 6:15-cv-01038-RWS (E.D. Tex.), which is from the present case before it was transferred to
 15 this Court.

16 3. Attached as Exhibit 54 is a true and correct copy of excerpts from the February
 17 28, 2017 Opening Expert Report of Dr. David Martin in *Eolas Technologies Inc. v. Amazon.com*
 18 *Inc.*, No. 6:15-cv-01038-RWS (E.D. Tex.), which is from the present case before it was
 19 transferred to this Court.

20 4. Attached as Exhibit 55 is a true and correct copy of excerpts from the December
 21 20, 2011 Deposition Transcript of David M. Martin in *Eolas Technologies Inc. v. Adobe Systems*
 22 *Inc.*, No. 6:09-cv-00446-LED (E.D. Tex.) (case number incorrectly marked on the transcript).

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 5. Attached as Exhibit 56 is a true and correct copy of excerpts from the January 13,
2 2017 Deposition Transcript of David C. Martin in *Eolas Technologies Inc. v. Amazon.com Inc.*,
3 No. 6:15-cv-01038-RWS (E.D. Tex.), which is from the present case before it was transferred to
4 this Court.

5 I declare under penalty of perjury that the foregoing is true and correct, executed this day
6 in Palo Alto, CA.

7

8 Executed on: May 19, 2020

/s/ Richard G. Frenkel

9 Richard G. Frenkel

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28